

II. FINANCIAL AND FISCAL OPERATIONS

Court Registry and Investments

_____ Funds may be placed in the Registry of this Court by leave of the Court. The Court orders funds deposited into and withdrawn from the Registry in accordance with the provisions of Title 28, U.S.C., 2041 and 2042. If funds deposited into the Registry in this manner fall under Rule 67, of the Federal Rules of Civil Procedure, then the Clerk of Court will deposit the funds in the “COURT REGISTRY INVESTMENT SYSTEM” (CRIS) as soon as the business of his office allows. General Order 83-6 and 88-15 (Exhibit 1) compels the Clerk to take this investment action.

General Order 83-6 (Deposits into the Court Registry)

To invoke General Order 83-6 requires that the conditions of Rule 67 of the Federal Rules of Civil Procedure, be met. Namely:

- 1) The funds must be “in an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money . . .”
- 2) The Court must order the funds deposited into the Registry.
- 3) The party making the deposit must serve the order permitting deposit on the Clerk of Court.

Further, to obtain investment of funds outside of Rule 67 of the Federal Rules of Civil Procedure, requires that three additional steps be followed:

- 1) The party must prepare an appropriate motion and order.
- 2) This order must be reviewed by the Financial Deputy at Houston, Texas, prior to signing by a Judge to insure that proper investment can be made in compliance with the order.
- 3) A copy of the order of Court must be delivered either personally, or by certified mail, to the Clerk, or in his absence, to the Chief Deputy at Houston, Texas, and a copy sent to the Financial Deputy at Houston, Texas.

General Order 83-6 documents each of the above steps. Furthermore, General Order 88-15, which supersedes some parts of 83-6, set out the CRIS investment objectives and guidelines.

THE COURT REGISTRY INVESTMENT SYSTEM (CRIS)

“CRIS” is an investment program developed by this Court, with the principle objectives of a fair rate of return with no risk of loss of principal. “CRIS” consists of one (1) portfolio, the “Liquidity Fund” containing securities with a maturity date of 100 days or less. The “Fund” invests solely in United States Treasury Bill, Notes and Bonds. All of the Courts’ securities are held in safekeeping at the Federal Reserve Bank of Dallas, in the Clerk’s name.

In 1991, “CRIS” took a national scope of expansion and as of June 2000 there were twenty-two (22) Courts from nine (9) circuits participating in the program, with combined total assets of over \$560 million dollars.

Minor’s Funds

_____ Due to the special sensitivity related to a suit involving minor plaintiffs, more stringent procedures exist to insure that timely and accurate investment of funds occurs. The procedure for processing a suit involving minor plaintiffs (Exhibit 2) details the steps that must be taken by the attorney, the Courtroom Deputy, and the Financial Deputy to insure the proper handling of minor’s funds.

APPEARANCE BONDS

Cash Bonds

The Clerk of Court accepts funds for an appearance bond in the form of cash, a cashier’s check, or a money order and made payable to the “Clerk, U.S. District Court”. No personal checks, certified checks, or bank drafts are accepted. Personal property, such as jewelry or automobiles, real estate, or other forms of collateral are not accepted for the purpose of posting a bond. Further, the Clerk will not accept an appearance bond deposit without a signed “Affidavit of Ownership of Security for appearance Bond” (Exhibit 3). The Magistrate Judge’s Clerical assistant, present in the courtroom during the setting of bail, will assist in preparing this form prior to payment at the Clerk’s office.

Importantly, Rule 16 paragraph B of the Local Rules for the Southern District of Texas states:

“Non-Assignability of Receipts. A Clerk’s receipt or the claim for the refund of a deposit is not assignable.”

Thus, the individual named as owner of the funds on the affidavit of ownership receives any refund pending at the end of litigation.

Surety Bond

A surety bond may be posted in lieu of a cash bond. However, only a select group of surety companies and their representatives may post a surety bond in the Southern District of Texas. To become a member of this group requires:

- 1) That the company be approved by the Administrative Office of the United States Courts.
- 2) the representative posting the surety for the company obtain a specific Power of Attorney for each of the Divisional offices in the Southern District of Texas in which he wishes to post surety.

ALL BONDS THAT ARE NOT CRIMINAL IN NATURE

Bonds posted for the Removal of a Case from another court, Temporary Restraining Order, etc., can be in the form of cash, cashier's check, money order, personal or firm check, certified check, and Wire Transfer for large sums. All checks are to be made payable to the "Clerk, U. S. District or Bankruptcy Court" and must be accompanied by the Court Order (if required) and a completed "Cash Bond" form (exhibit 4). Funds of \$1,000.00 or more will be placed for investment in the "CRIS" program's "Liquidity Fund".

Surety Bond

A surety bond may be posted in lieu of a cash bond. The same criteria applies as stated under "Appearance Bonds" for the posting of a surety bond.

DISBURSEMENT OF FUNDS FROM THE REGISTRY OF THE COURT

Appearance (Bail) Bonds

If a defendant sentenced to serve a term in prison does not file an appeal, the process to refund the bond will begin. This process contains several pertinent time frames.

- 1) The Probation office prepares the Judgment and Commitment (J&C) and forwards it to the Court for signature.
- 2) The return portion of the J&C must then be completed by the U.S. Marshal. The U.S. Marshal forwards the completed J&C to the Criminal section of the Clerk's office.

- 3) After receipt of the J&C the Criminal section prepares the “Order to Disburse Cash Bond” (Exhibit 5). The Criminal Deputy Clerk, the Financial Deputy, and the Assistant U.S. Attorney must review and sign this document prior to presentation to the Court for signature.
- 4) The signed order is forwarded to the Financial section for payment.

This process is shortened when the Court grants a probated sentence. In this instance the Criminal section prepares the disbursement Order immediately upon the defendant’s first probation appearance.

The process is shortened still further with the dismissal of a case or an acquittal by jury. The Criminal Deputy clerk will immediately prepare the disbursement Order and forward the document to the proper section for signature.

Please remember that all checks will be drawn as documented on the original “Affidavit of Ownership of Security for Appearance Bond”. It is the responsibility of the owner to update any changes of address by forwarding a signed letter to:

Clerk , U. S. District Court
ATTN: Financial Section
P.O. Box 61010
Houston, Texas 77208

Disbursement of Registry Funds other than Criminal Bail Bonds

A motion and order must be filed with the Clerk’s office title “Order for disbursement of funds from the Court Registry”. This order must contain very specific language regarding to whom the check is to be drawn, the correct address for the individual, and the appropriate dollar amount. For example:

The Clerk of Court is Ordered to disburse \$1,234.00 plus a pro rata share of any accrued interest to: Tom Smith at 1000 Fannin, Houston, Texas 77002,

OR

The Clerk of Court is Ordered to disburse all principle and accrued interest to: Tom Smith at 1000 Fannin, Houston, Texas 77002.

Please note that the manner in which the order is worded will cause the check to be drawn identically. The only exception being, if the address contains “in care of” (c/o) it will not appear on the check itself. However, it will be mailed “in care of”.

Disbursement of Minor’s Funds

Upon a minor reaching majority, a motion and order, accompanied by a certified copy of the minor’s birth certificate, can be submitted to the Clerk’s office for presentation to the Court. (Exhibit 7)

Special Note: Any person wanting to receive a check in the Clerk’s office must present a photo ID as proof they are the person stated on the check. If an agent of the owner is to receive the check, an authorization letter from the party to whom the check is drawn is required in addition to a photo ID. These rules also apply to the owner’s counsel.